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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,442	06/25/2003	George Baran	6298/431	2937

7590 01/04/2007
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

HILL, LAURA C

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/606,442

Applicant(s)

BARAN, GEORGE

Examiner

Laura C. Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/14/06.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 5, filed 24 October 2006, with respect to the rejection(s) of the claim(s) under Baran (US 5,954,223) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chester (WO 82/00413 A1), Smith et al. (US 5,031,613), and Blake et al. (US 3,634,924) as discussed below.

Claim Language Interpretation

2. The term "multilumen" as recited on line 3 of claim 77 is interpreted to include but not be limited to more than one coaxial lumen inside of another lumen.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 77-78, 64-74, 76, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chester (WO 82/00413 A1) in view of Smith et al. (US 5,031,613).

Regarding claims 77, 66-68, 76, and 81 Chester discloses a method of forming a medical tube (page 1, lines 2-5) comprising: providing a multi-lumen extruded compliant plastic tubing (page 3, lines 30-33, page 8, lines 16-21); inherently discloses heating the tubing to a glass transition temperature and exposing the plastic tubing to high energy radiation to crosslink polymers since it is made by extrusion (see Wikipedia article for description of extrusion process); forming a flexible j-shaped distal section (page 8, lines 16-21). Chester *does not expressly disclose* forming a plurality of orifices at the distal

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section. **Smith** discloses a multi-lumen plastic catheter 2 with a j-shaped distal section (column 2, lines 10-15, lines 50-53, figure 1) and forming a plurality of perforations/orifices 10 at the distal section (column 2, lines 25-33) to provide medicinal aerosol particles which are inhaled into the lungs (column 1, lines 50-53, column 2, lines 12-15, column 3, lines 26-30, figure 3). One would be motivated to modify the tube of Chester to have a plurality of orifices at a distal section for distribution of liquid medication since the references are in the same field of endeavor; multi-lumen j-shaped medical catheters. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the catheter, thus providing a plurality of orifices.

Regarding claim 78 Smith further discloses the j-shaped distal section maintains its orientation with the plurality of orifices 10 pointed toward a proximal end of the catheter (figures 2-4).

Regarding claims 64-65 Chester/Smith further inherently discloses cutting the tubing at a distal end since the references disclose a cut medical catheter as discussed above with respect to claim 77.

Regarding claims 69-74 Chester further discloses providing graduated radiopaque markings along the catheter in the form of stripes 16, 18 that are made via a coextrusion process (page 3, lines 33-36, page 6, line 34-page 7, line 7).

4. Claims 75 and 79-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chester (WO 82/00413 A1)/ Smith et al. (US 5,031,613) as applied to claim 77, and further in view of Blake et al. (US 3,634,924). Chester/Smith disclose the method as discussed above with respect to claim 77. Chester/Smith do not expressly disclose a

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wire at a distal end or in the wall of the catheter. **Blake** discloses multilumen catheter tube 10 formed by extrusion (column 1, line 73-column 2, line 9) of a compliant thermoplastic material (column 2, line 75-column 3, line 2) and useful for injection of therapeutic agents (column 2, lines 66-68). Blake further discloses round wire 30 inserted in lumen 11 so the lumen holds its shape (column 2, lines 39-57, figure 4). One would be motivated to modify the catheter lumen of Chester/Smith with the tether wire of Blake to maintain the catheter shape since the references both disclose extruded multi-lumen catheters. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the catheter, thus providing a wire.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weilbacher (Des. 303,840) discloses a j-shaped surgical drain tube with a plurality of openings at the distal end. LeVeen et al. (US 4,662,404) discloses a flexible tubing 10 for use as a catheter having graduated radiopaque stripes 12 formed via coextrusion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

